

Panaji, 10th April, 1975 (Chaitra 20, 1897)

SERIES II No. 2

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA, DAMAN AND DIU

### GOVERNMENT OF GOA, DAMAN AND DIU

#### General Administration Department

Notification

No. 4-1-74-GAD

Read: Notification of even number dated 14-11-74 regarding Holidays for the year 1975.

In pursuance of the Explanation to Section 25 of the Negotiable Instrument Act, 1881 (26 of 1881), the Government is pleased to declare Thursday the 24th April, 1975, to be a public holiday in Goa, Daman and Diu, in commemoration of the 2500th Anniversary of Lord Mahavira's Nirvana.

The restricted holiday declared on Wednesday, 23rd April, 1975 is hereby cancelled.

By order and in the name of the Administrator of Goa, Daman and Diu,

M. K. Bhandare, Deputy Secretary (Appointments).

Panaji, 20th March, 1975.

#### Confidential and Vigilance Department

Memo

No. 10-4-68-CVD-Part II

The list of Vigilance Officers appended to the Memo No. 12-4-68-CVD, dated 8th March, 1974 and published in the Official Gazette Series II, No. 5, dated 21st March, 1974, is further amended as follows:

- 1) Shri S. C. Arya, Principal, Government Arts and Science College, Daman, is nominated as Vigilance Officer for Government Arts and Science College, Daman.

M. K. Bhandare, Deputy Secretary (Appointments).

Panaji, 31st March, 1975.

#### Home Department (General)

#### Office of the District Magistrate of Goa

Order

No. JUD/MP/75/126

In exercise of the powers conferred by sub-section (1) of Section 22 of the Criminal Procedure Code, 1973 (Act No. 2

of 1974), I. P. S. Bhatnagar, District Magistrate of Goa, hereby order that Shri S. D. Ganjekar, Executive Magistrate, Satari Taluka may also exercise the powers of Executive Magistrate within the local limits of Bicholim Taluka from 24th March, 1975 to 28th March, 1975 in addition to his own duties.

P. S. Bhatnagar, District Magistrate.

Panaji, 22nd March, 1975.

Order

No. JUD/MP/75/127

In exercise of the powers conferred by sub-section (1) of Section 22 of the Criminal Procedure Code, 1973 (Act No. 2 of 1974), I. P. S. Bhatnagar, District Magistrate of Goa, hereby order that Shri M. M. Mithavkar, Executive Magistrate, Bardez Taluka may also exercise the powers of Executive Magistrate within the local limits of Pernem Taluka from 23rd March, 1975 to 30th March, 1975 in addition to his own duties.

P. S. Bhatnagar, District Magistrate.

Panaji, 22nd March, 1975.

Order

No. JUD/MP/75/178

In exercise of the powers conferred by sub-section (1) of Section 22 of Criminal Procedure Code, 1973 (Act No. 2 of 1974) I. P. S. Bhatnagar, District Magistrate of Goa, hereby order that Shri M. S. Sail, Executive Magistrate, Mormugao Taluka, may also exercise the powers of Executive Magistrate within the local limits of Sub Division, South Goa, from 25th to 31st March, 1975, in addition to his own duties.

P. S. Bhatnagar, District Magistrate.

Panaji, 24th March, 1975.

Notification

No. HD(G)-44-92/74(1)

In exercise of the powers conferred by Sub-Section (1) of Section 20 of the Criminal Procedure Code, 1973 (Act no. 2 of 1974) the Lieutenant Governor of Goa, Daman and Diu hereby appoints, Shri E. N. Rodrigues, Deputy Collector South Division, as Executive Magistrate from the date he takes over the charge.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

G. M. Sardesai, Under Secretary (Home).

Panaji, 2nd April, 1975.

## Notification

No. HD(G)44-92/74(II)

- Read: 1) Order No. 3-24-74-SPL dated 25-3-75.  
 2) Notification No. HD(G)-44-92/72(C) dated 13-12-74.  
 3) Notification No. HD(G)-44-92/74(I) dated 1-4-75.

In exercise of the powers conferred by Sub-Section (4) of Section 20 of the Criminal Procedure Code, 1973 (Act No. 2 of 1974) and in supersession of Notification No. HD(G)44-92/72(C) dated 13-12-1974 the Lieutenant Governor of Goa, Daman and Diu appoints Shri E. N. Rodrigues, Deputy Collector, South Division and Executive Magistrate as Sub-Divisional Magistrate, South Division Margao from the date he takes over the charge.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

G. M. Sardesai, Under Secretary (Home).

Panaji, 2nd April, 1975.

## Education and Public Works Department

## Order

No. PWD/7560/Int/UPSC/74/EDN-PWD/ESN

Shri E. S. Namboodiri a candidate recommended by Union Public Service Commission is appointed on purely temporary basis as Assistant Engineer (Civil) in the Public Works Department in the scale of Rs. 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200 (Revised) plus all other admissible allowances with effect from the date of taking over the charge.

2. The appointment is subject to the terms and conditions specified in the Memorandum of even number dated 3-1-1975.

3. He is posted in the Office of the Supdt. Surveyor of Works.

4. His pay will be fixed according to Rules.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. Rajasekhar, Under Secretary (Revenue).

Panaji, 26th March, 1975.

## Order

No. PWD/7560/Int/UPSC/74/EDN-PWD/CM

Shri Chandramohan Marapatla a candidate recommended by Union Public Service Commission is appointed on purely temporary basis as Assistant Engineer (Civil) in the public Works Department in the scale of Rs. 650-30-740-35-810-EB-35-880-40-1000-EB-40-1200 (Revised) plus all other admissible allowances with effect from the date of taking over the charge.

2. The appointment is subject to the terms and conditions specified in the Memorandum of even number dated 4-1-1975.

3. He is posted in the Circle Office I.

4. His pay will be fixed according to Rules.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. Rajasekhar, Under Secretary (Revenue).

Panaji, 26th March, 1975.

## Agriculture Department

## Order

No. 2-13-74 AH

Shri A. S. Wagle, on deputation from the Directorate of Animal Husbandry and Veterinary Services, Panaji, to the

M.F.A.L. Development Agency, as Assistant Project Officer (Animal Husbandry), is appointed Dy. Director of Animal Husbandry and Veterinary Services, Panaji, on ad-hoc basis, with effect from 1-4-75, until further orders.

By order and in the name of the Administrator of Goa, Daman and Diu.

Abel do Rosario, Under Secretary (Development).

Panaji, 31st March, 1975.

## Rural Development Department

## Order

No. RDD/Coop/Deput/Misc/36/74/2563

The Government Order No. RDD/Coop/Deput/Misc/36/74/997/3330, dated 17-4-1974, regarding deputation on foreign service terms of Shri M. N. Bhartiya, Assistant Registrar of Cooperative Societies, to the post of Principal, Goa Cooperative Training Centre, Porvorim, is hereby cancelled.

By order and in the name of the Administrator of Goa, Daman and Diu.

F. A. Figueiredo, Under Secretary (Revenue).

Panaji, 26th March, 1975.

## Order

No. CDB/Coop/Ext-Deput/(AYG)/1350/72/2060/2636

Read: 1) Registrar of Coop. Societies' letter No. RCS/EST/PF/(AYG)/13/1975, dated 7-3-75.

2) Govt. Order No. CDB/Coop/1350/72, dated 22-12-72.

3) Govt. Order No. CDB/Coop/Ext-Deput/(AYG)/1350/72/179, dated 16-1-75.

Sanction is, hereby, accorded to the extension of deputation term of Shri A. Y. Gore, Manager, Goa State Cooperative Dairy Federation Ltd., Ponda, for a further period of one more year with effect from 1-4-1975 under the terms and conditions already specified in the Government Order referred to above.

By order and in the name of the Administrator of Goa, Daman and Diu.

F. A. Figueiredo, Under Secretary (Planning).

Panaji, 2nd April, 1975.

## Notification

No. CDB/Coop/APMC/1181/68-69/70-71/1829

In partial modification of Government Notification No. CDB/Coop/APMC/1181/68-69/70-71/8490/8994, dated 22-10-1974, the Administrator of Goa, Daman and Diu in exercise of the powers conferred by sub-section (4) of section 14 of the Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 (Act No. 20 of 1964), as extended to Union territory of Goa, Daman and Diu hereby publishes the name of Shri Keshavrao Janardan Dessai, Ponda, Chairman of Central Supari Sahakari Kheredi-Vikri Society Ltd., Ponda, Goa as a member of the Goa Agricultural Produce Market Committee, Margao vice Shri Keshav Atmaram Savoikar, Ponda, Chairman of Central Supari Sahakari-Kharedi Vikri Society Ltd., Ponda shown in the item (c) (1) of the above referred notification, who has resigned as he ceased to be a representative of co-operative Marketing Society.

By order and in the name of the Administrator of Goa, Daman and Diu.

F. A. Figueiredo, Under Secretary (Planning).

Panaji, 26th March, 1975.

## Industries and Power Department

Order

No. 1-542-74-75-IPD

Read: Offer of appointment of even number dated 4-2-1975.

On recommendation of Union Public Service Commission Shri Bijoy Kumar Das is hereby appointed to the post of Senior Workshop Superintendent in the Marine Workshop Betim, on a pay of Rs. 1100/- P. M. in the scale of Rs. 1100-50-1600/- plus usual allowances, with effect from the date he takes over the charge of the post.

His terms of appointment will be as contained in the offer of appointment of even number dated 4-2-1975.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary (Industries and Labour).

Panaji, 31st March, 1975.

## Labour and Information Department

Order

No. 1/396/75-LAB

The following Award given by the Arbitrator, M. G. Chitale on an industrial dispute between the Management of M/s. McDowell and Company Ltd. Bethora (Ponda) Goa and their workmen employed by them, is hereby published as required vide provisions of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947).

P. Noronha, Under Secretary (Industries and Labour).

Panaji, 1st March, 1975.

## Before Shri M. G. Chitale, Hon'ble Arbitrator

Arbitration under Section 10A of the Industrial Disputes Act, 1947

Between

M/s. McDowell and Company Limited, Bethora, Ponda, Goa,  
And

Their workmen represented by National Union of General Employees (Goa), Vasco da Gama.

In the matter of classification, pay-scales, D.A., etc.

Appearances:

Shri Ramesh Desai, Labour Adviser, for the Company.

Shri Mohan Nair, and Gajanan Patil for the workmen.

## AWARD PART—I

This is a reference under Section 10A of the Industrial Disputes Act, 1947, relating to the dispute between M/s. McDowell and Co. Ltd., Bethora, Ponda, and their workmen. The demands in the reference are: Classification, giving letter of appointment, revision of pay-scales, dearness allowance, variable dearness allowance, uniforms and washing allowance, bonus for the year 1972-73, paid holidays, privilege leave, sick leave, casual leave, canteen facility, overtime wages and reinstatement of Olavo Pinto with full back-wages and continuity of service.

2. Pending the hearing of the reference, the parties have arrived at settlement. Terms of settlement are produced. Parties request that award as per terms of settlement, except with regard to the demand for reinstatement of Olavo Pinto, should be passed. I find that the terms of settlement are fair and reasonable. Accordingly I pass award as per terms

of settlement annexed hereto with regard to all the demands except the demand for reinstatement of Olavo Pinto.

3. The reference shall proceed only in respect of the demand for reinstatement of Olavo Pinto.

4. Award accordingly. No order as to costs.

Sd/-

M. G. CHITALE

Arbitrator

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary (Industries and Labour).

## Before Shri M. G. Chitale, Hon'ble Arbitrator

Reference No. of 1974

Between

McDowell &amp; Co. Ltd.

v/s

Their workmen

May it Please Your Honour,

The parties in the above Arbitration proceedings have come to the following settlement in respect of charter of demands served on the Company by the National Union of General Employees vide its letter dated 29-10-1973. The demand in respect of the alleged illegal termination of services of Shri Olavo Pinto is not settled. The parties, therefore, pray that the Award may please be given by this Hon'ble Arbitrator in terms of the following settlement.

Memorandum of settlement under Section 2(P) of the Industrial Disputes Act, 1947 read with Section 19(1) of the said Act

Present

Representing the Employers

Representing the Employees

1. Shri B. S. Dattatraya,  
Personnel Officer,  
M/s. McDowell & Co.  
Ltd.

1. Shri Mohan Nair,  
President,  
National Union of General Employees.

2. Shri Ramesh Dessai,  
Labour Adviser.

## Short Recital of the Case

The National Union of General Employees (hereinafter referred to as the Union) vide its letter dated 29-10-1973 submitted a charter of demands in respect of reclassification of categories of workmen, letter of appointment, revision of pay-scales, Dearness Allowance, Variable Dearness Allowance, uniforms and washing allowance, bonus, paid holidays, leave, canteen and overtime. The demand in respect of illegal termination of service of Shri Olavo Pinto was also served by the Union upon the Company vide its letter dated 11-3-1974. During the period, the workers resorted to strike followed by the declaration of lock-out by the Management and the normalcy was restored on 29th of January, 1974. Issue in respect of strike and lock-out is pending before the Industrial Tribunal Goa, Daman and Diu. In respect of charter of demands and alleged illegal termination of Shri Olavo Pinto, the parties arrived at a settlement agreeing to refer the matter to Arbitration of Justice Shri M. G. Chitale. The period for arbitration was extended upto 21st March, 1975 jointly. During the extended period of arbitration, negotiations on the charter of demands commenced and the parties ultimately have arrived at the following settlement. The terms of settlement are as under:

## Terms of Settlement

Demand No. 1: Reclassification of the categories of the workmen.

The workmen are categorised in different grades as shown in the Annexure «A» to this settlement.

Demand No. 2: Letter of appointment and permanency of workmen.

It is hereby agreed between the parties that such of the workmen who have completed six months of continuous ser-

vice or 240 days in aggregate during the preceeding 12 months shall be made permanent and confirmed in the service from the date of this settlement.

**Demand No. 3: Revision of Pay Scales:**

It is hereby agreed between the parties that the workmen employed by the Company will be placed in the following grades and the scales for the respective grades are stipulated as under:

Grade I	Rs. 85-5-160
Grade II	Rs. 105-5-145-7-194
Grade III	Rs. 125-7-181-10-251
Grade IV	Rs. 225-10-275-12-335-15-440

**Demand No. 4: Dearness Allowance and.**

**Demand No. 5: Variable Dearness Allowance.**

It is hereby agreed between the parties that the Company shall pay Dearness Allowance to all its workmen at the following rates:

Upto and including Rs. 100/-	75% of the Basic Pay subject to minimum of Rs. 75/-
Rs. 101/- to Rs. 200/-	40% of the Basic Pay.
Rs. 201/- to Rs. 300/-	20% of the Basic Pay.
Rs. 301/- and above	10% of the Basic Pay.

It is hereby agreed between the parties that the above scales of pay and Dearness Allowance is linked up at Goa Consumer Price Index Figure 144 (1966—100). It is further agreed that the Company shall pay Variable Dearness Allowance to all its workmen for a rise in the Goa Consumer Price Index Figure over and above 144 (1966—100) at the rate of Rs. 1-20 per point rise per month. It is further agreed that from January, 1975 the V. D. A. will be Rs. 49-20 at the Goa Consumer Price Index Figure 185 (1966—100). The parties further agreed that the revision in the V. D. A. will be made every six months commencing from April, 1975. For the purpose of revision of Variable Dearness Allowance from April 1975 to September 1975, average Consumer Price Index Figure for Goa region for the period July 1974 to December, 1974 will be taken as basis. Similarly, for the purpose of payment of Variable Dearness Allowance for the period from October, 1975 to March 1976, average Consumer Price Index Figure for Goa region from January 1975 to June 1975 will be taken as the basis. This procedure shall continue till the expiry of this Settlement for the purpose of payment of Variable Dearness Allowance for future periods.

It is further agreed between the parties that the adjustment of the existing wages will be made as shown in the Annexure «A» to this settlement.

**Demand No. 6: Uniforms and Washing Allowance.**

It is hereby agreed that 2 sets of uniforms will be provided to all the workmen per year by every July end and the existing facilities of free washing of uniforms shall continue during the subsistence of this settlement.

**Demand No. 7: Bonus.**

In view of the fact that the Company has already paid the Bonus for the year 1972-73 at the rate of 20% of the wages, the demand is dropped by the Union.

**Demand No. 8: Paid Holiday.**

The Company agrees to grant 9 paid Holidays in a calendar year. The list of holidays will be finalised on or before 15th December of the previous year in consultation with the representative of the workmen and/or their Union. If no suggestions are received from the representatives of the workmen and/or the Union on or before 15th December, the management will be free to notify 9 paid holidays as per choice of the Management and exhibit the same on the Notice Board giving time for comments of the workmen/Union. If no comments or suggestions are received within seven days thereof, the notified holidays shall be taken as accepted.

**Demand No. 9: Leave.**

As against the existing pattern of leave, the Company agrees to extend the following leave benefits to all its workers:

(i) Privilege Leave: Subject to provisions of Factories Act, 1948, one day's privilege leave for every 16 days worked

for first 240 days worked and one day's privilege leave for every 10 days worked thereafter during the calendar year, with right to accumulation for a period of 2 years.

(ii) Sick Leave: 10 days paid sick leave for each calendar year of service with a right to accumulate it for a period of 2 years.

*Note:* It is clearly agreed and understood by and between the parties that the benefit in regard to 10 days sick leave would be withdrawn by the Management upon introduction of Employee's State Insurance Scheme in the territory of Goa, Daman & Diu and the workmen start getting benefits thereunder.

(iii) Casual Leave: 7 days paid casual leave in a calendar year. Not more than 3 days casual leave will be granted at a time as far as possible the workmen shall submit leave application for casual leave in advance in writing. In emergency, however, casual leave in advance may be sanctioned after the worker resumes duty and application to this effect is submitted by him without any delay. Casual leave may be prefixed or suffixed (but not both ways) to Sunday or paid holiday or any other kind of leave.

**Demand No. 10: Canteen.**

This demand is dropped by the Union for the time being.

**Demand No. 11: Overtime.**

In view of the fact that the Company pays overtime as per the provisions of Factories Act, 1948, this demand is withdrawn by the Union.

The parties agree that the new scales of pay, Dearness Allowance and Variable Dearness Allowance shall come into force from 1-1-1975.

It is further agreed between the parties that this Settlement shall be binding upon the parties for a period ending 31st March, 1977.

The Union agrees not to raise any demand already covered by this Agreement during the operation of this Memorandum of Settlement.

The parties further agree that they shall try to settle all disputes, as far as possible, by mutual negotiations and if the settlement is not possible, shall resolve the same through the machinery laid down under the Industrial Disputes Act, 1947.

*Representing the Employer*

*Representing the Employees*

1. (B. S. Dattatraya).

(Mohan Nair).

2. (Ramesh Dessai).

Witness:

(V. R. Banavali).

Ponda, Goa.

**ANNEXURE 'A'**

**McDowell & Company Limited**

**BETHORA — PONDA**

**GRADES**

Grade I	Rs. 85-5-160
Grade II	Rs. 105-5-145-7-194
Grade III	Rs. 125-7-181-10-251
Grade IV	Rs. 225-10-275-12-335-15-440

Sl. No.	Name	Date of joining	Grade	Existing salary Rs.	Wages from 1-1-1975 including VDA Rs.
1.	Vinod R. Banavali	1-3-73	II	172.50	Basic 135.00 D.A. 89.00 V.D.A. 49.20 <u>273.20</u>
2.	John Salvador Mendes	14-3-72	I	129.00	Basic 100.00 D.A. 75.00 V.D.A. 49.20 <u>224.20</u>

Sl. No.	Name	Date of joining	Grade	Exist- ing sa- lary Rs.	Wages from 1-1-75 including VDA Rs.
3.	Lourenco Pe- reira	7-4-72	I	129.00	Basic 100.00 D.A. 75.00 V.D.A. 49.20 224.20
4.	Mrs. Mondirem Maulana	29-8-70	I	129.00	Basic 100.00 D.A. 75.00 V.D.A. 49.20 224.20
5.	Shaik Abdul Shaik Rehman	1-10-70	II	177.00	Basic 140.00 D.A. 91.00 V.D.A. 49.20 280.20
6.	Bahadur Khan	1-10-70	II	177.00	Basic 140.00 D.A. 91.00 V.D.A. 49.20 280.20
7.	Antonio Xavier Dias	1-10-70	I	129.00	Basic 100.00 D.A. 75.00 V.D.A. 49.20 224.20
8.	Alberto Calisto	1-10-70	III	245.00	Basic 201.00 D.A. 115.20 V.D.A. 49.20 365.40
9.	Kalidas Gadd	1-10-70	II	200.00	Basic 152.00 D.A. 95.80 V.D.A. 49.20 297.00
10.	Razak Adam Shah	1-10-70	II	200.00	Basic 152.00 D.A. 95.80 V.D.A. 49.20 297.00
11.	Santan Dias	18-2-72	II	165.00	Basic 130.00 D.A. 87.00 V.D.A. 49.20 266.20
12.	Hussain Shah	1-11-72	IV	300.00	Basic 255.00 D.A. 126.00 V.D.A. 49.20 430.20
13.	Ashlay Stevens	27-8-73	II	150.00	Basic 115.00 D.A. 81.00 V.D.A. 49.20 245.20

Order

No. LC/1/ID/(176)/73/354

In continuation to Government Order No. LC/1/ID/(176)/73/1415 dated 26-11-74 published in the Official Gazette No. 37, Series II dated 12-12-1974, the Lieutenant Governor of Goa, Daman and Diu hereby grants further extension of one month to the term of the Court of Inquiry and directs that the said Court shall complete its inquiry and submit its report to Government by 30th April, 1975.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary (Industries and Labour).  
Panaji, 22nd March, 1975.

Order

No. CLE/1/ID(12)/75/349

Whereas the Management of Margao Municipal Council, Margao, Goa and the workmen represented by the Goa Municipal Workers' Union, Vasco-da-Gama, Goa, have entered into an agreement on 10th February, 1975 to refer the industrial dispute existing between them to an arbitrator under sub-section (3) of section 10-A of the Industrial Disputes Act, 1947 (14 of 1947);

And whereas a copy of the said arbitration agreement has been received by the Government of Goa, Daman and Diu on 16-2-1975;

Now, therefore, in exercise of the powers under sub-section (3) of the said section 10-A of the Industrial Disputes Act, 1947 the Lieutenant Governor of Goa, Daman and Diu hereby orders the publication of the said arbitration agreement in the Official Gazette as hereunder.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 24th March, 1975.

## FORM (C)

(Under Section 10-A of the Industrial Disputes Act, 1947)

Between

Name of the Parties:

- 1) Shri Milton Coutinho,  
The President,  
Margao Municipal Council,  
Margao-Goa.

Representing Employers:

- 2) Shri J. J. Barreto,  
Chief Officer,  
Margao Municipal Council,  
Margao-Goa.

Representing the Workmen:

- 1) Shri Shivram Azgaonkar,  
President,  
Goa Municipal Workers' Union,  
Vasco-da-Gama (Goa).

It is hereby agreed between the parties to refer the following dispute to the arbitration of Shri S. R. Arya, Revenue Secretary, Government of Goa, Daman and Diu, Panaji, Goa.

(i) Specific matters in dispute:

- "1. Whether the orders nos. ADM/13/23/75 dated 6-1-1975 and ADM/106/23/75 dated 3-2-1975 (copies enclosed), of Margao Municipal Council designating Shri Ankush Pednekar as Supervisor with effect from 6-1-1975 and giving him pay scale of supervisor is legal and justified?

(ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved:

- a) Margao Municipal Council, Margao, Goa.
- b) Goa Municipal Workers' Union, Vasco.

(iii) Name of the workman in case he himself is involved in the dispute or the name of the Union, if any, representing workmen or workman in question: Goa Municipal Workers Union, Vasco.

(iv) Total number of workmen employed in the undertaking affected: 200 (approx.)

(v) Estimated number of workmen affected or likely to be affected: 1

We further agree that the decision of the Arbitrator shall be binding on us.

The arbitrator shall make his Award within a period of 120 days or within such further time as is extended by mutual agreement between us in writing. In case the award is not made within the period aforementioned, the reference to arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitration.

## Signature of the parties:

Representing the Employers: 1. (Milton Coutinho)  
2. (J. J. Barreto)

Representing the Workmen: (Shivram Aijaonkar)

## Witnesses:

1. S. V. Karmali
2. R. Bhandare.

Dated: 10th February, 1975.

I accept to arbitrate in this industrial dispute.

(S. R. Arya)  
Revenue Secretary  
Government of Goa, Daman and Diu,  
Panaji.

TRUE COPY

ADM/17/23/75

6th January, 1975.

## ORDER

Sub: Resolution No. 688 dated 8-11-1974 of Standing Committee designating Shri Ancush Pednenkar, as supervisor in an existing vacancy.

Shri Ancush Pednenkar, helper for Inspector of weights and measures and who has been performing the duties of Supervisor for the last 5 years is hereby designated as Supervisor in the pay scale of 210-4-250-EB-5-270 with effect from today the 6th January, 1975. He shall be entitled to

all the allowances and other benefits as admissible from time to time to the post of Supervisor.

His pay is to be fixed as per rules in force.

Sd/-

(J. Jacinto Barreto)  
Chief officer  
Margao Municipal Council

## Copy to:—

1. Shri Ancush Pednenkar, Supervisor.
2. Accounts Section for necessary action.
3. Personal file.

TRUE COPY

No. Adm/106/23/75  
Office of the Margao  
Municipal Council.  
Margao-Goa.  
3rd February, 1975.

## ORDER

Read 1) Resolution No. 688 dated 8-11-1974 of the Standing Committee.  
2) Order No. Adm/13/23/75 dated 6-1-1975.

The pay of Shri Ancush Pednenkar, Supervisor is fixed at Rs. 210/- (Rs. two hundred ten only) in the pay scale of Rs. 210-4-250-EB-5-270, with effect from 6-1-1975.

Sd/

(J. Jacinto Barreto)  
Chief Officer  
Margao Municipal Council

## Copy to:

1. Accounts Section.
  2. Shri Ancush Pednenkar, Supervisor.
- Two o/c

## Revenue Department

## Notification

No. RD/LQN/264/73

Whereas by Government Notification No. RD/LQN/264/73 dated 24th November, 1973 published on page No. 305 of Series II, No. 35 of the Official Gazette, dated 29th November 1973 it was notified under section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as «the said Act») that the land specified in the Schedule appended to the said Notification (hereinafter referred to as «the said land») was likely to be needed for the public purpose viz. Nagoa Vanakbara Road.

And whereas the appropriate Government (hereinafter referred to as «the Government») is satisfied after considering

the report made under sub-section (2) of Section 5A of the said Act, that the said land specified in the Schedule hereto is needed to be acquired to the public purpose as specified above.

Now, therefore, the Government is pleased to declare under the provisions of section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government is pleased to appoint under clause (c) of Section 3 of the said Act, the Civil Administrator of Diu to perform the functions of a Collector for all proceedings hereinafter to be taken in respect of the said land, and to direct him under section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said Civil Administrator, Diu till the award is made under Section 11.

## SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
					Sarvashri.	
1.	Diu	Vanakbara	—	935	1. Laxmidas Prabhudas Shah. 2. Yogendra Laxmidas Shah. 3. Kanaiyalal Laxmidas Shah. 4. Ravindra Laxmidas Shah. 5. Tulsidas Laxmidas Shah. 6. Mahandra Laxmidas Shah.	1025.60
Total .....						1025.60

By order and in the name of the Lt. Governor of Goa, Daman and Diu,

S. R. Arya, Secretary (Revenue).

Panaji, 1st April, 1975.

## Notification

No. RD/LQN/56/73

Whereas by Government Notification No. RD/LQN/56/73 dated 22nd July, 1974 published on page 218 of Series II, No. 18 of the Official Gazette dated 1st August, 1974, it was notified under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as «the said Act») that the land specified in the schedule appended to the said notification (hereinafter referred to as «the said land») was needed for the public purpose of construction of Government High School at Candola-Ponda.

And whereas the appropriate Government (hereinafter referred to as «the Government») is satisfied that the said land specified in the schedule hereto is needed to be acquired for the public purpose specified above.

And whereas the acquisition of the said land is urgently necessary.

Now, therefore, the Government is pleased to declare under the provisions of section 6 of the said Act that the said land is required for the public purpose specified above.

The Government is also pleased to direct under Sub-Section (1) of Section 17 of the said Act that the Collector appointed under paragraph 2 below, shall at any time on expiration of fifteen days from the publication of the relating to the said land under Sub-Section (1) of Section 17 of the said Act, take possession of all waste or arable land.

2. The Government is also pleased to appoint under clause (c) of Section 3 of the said Act, the Land Acquisition Officer Panaji, to perform the functions of a Collector for all proceedings hereinafter to be taken in respect of the said land, and to direct him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said Land Acquisition Officer, Panaji, till the award is made.

## SCHEDULE

(Description of the said land)

Sl. No.	Taluka	Village	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
1.	Ponda	Candola	—	7-Part	1) Comunidade of Candola. 2) Pandurang Vinaeca Camotim Satoscar (Tenant).	12083.00
Boundaries:						
North: Land held by Comunidade of Candola.						
South: Land held by Comunidade of Candola and Sharada Mandir.						
East: Road.						
West: Land held by Comunidade of Candola.						
Total .....						12083.00

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

S. R. Arya, Secretary (Revenue).

Panaji, 1st April, 1975.

## Office of the Collector of Goa

Order

No. RB/RVN/50/73/787/75

In the Court of the Collector of Goa, Panaji  
Case No. RB/RVN/50/73

Sub: Resumption of Govt. land termed «Xivlem Mola» Plot No. 1 situated at Kalley of Sanguem, assigned To Shri Valentim Francisco A. S. Andre Pereira of Vasco-da-Gama under Title No. 1672, dated 6-5-1947, as shown on Plan No. 15186.

Therefore, in accordance with clause (f) of Sub-Section 2 of Section 21 of the Goa, Daman and Diu Land Revenue Code, 1968 read with clause (e) of Rule 15 of the Goa, Daman and Diu Land Revenue (Disposal of Govt. Lands) Rules, 1971, cultivated land admeasuring 8.8100,00 Ha. is retained with the party and the uncultivated portion of the land admeasuring 9.0984,83 Ha. is reverted to the Government directing the possession of the said land to be restored with immediate effect.

R. Narayanaswami, Collector of Goa.

Panaji, 7th February, 1975.

Order

No. RB/RVN/30/71/201

Sub: Resumption of Government land «without special denomination» situated at Bandoli of Sanguem, assigned to Shri Miguel Jose Joanes of Mormugao under Title No. 2157 dated 15-12-1964.

Therefore in accordance with clause f) of Sub-Section 2 of Section 21 of the Goa, Daman and Diu Land Revenue Code,

1968 read with clause e) of Rule 15 of Goa, Daman and Diu Land Revenue (Disposal of Government Lands) Rules, 1971, I order that the uncultivated portion of the land admeasuring 14.9935,88 Hectares be reverted to the Government directing the possession of the said land restored with immediate effect and only the cultivated part which is admeasuring 1.7988,00 Hectares be retained with the party.

R. Narayanaswami, Collector of Goa.

Panaji, 1st March, 1975.

Order

No. COL/CAB/MC/EST/5/74

As proposed by the Administrator of the Comunidades of Salcete, the following persons are appointed as members of the Managing Committees of the Comunidades for the current triennium 1974-1977:—

## Comunidade of Assolma

President: Dr. Gerson Ferreira.  
Substitute: Gualberto Almeida.  
Cashier: Vitol Morto Sinai Juvancar Cano.  
Substitute: Vassanta Jagu Sinai Navelcar.  
Attorney: Jose Paulo Ferreira.  
Substitute: Ravindra Camotim Timblo.

## Comunidade of Cavelossim:

President: Antonio Jose Conceição de Souza.  
Cashier: Silvestre Antonio Geraldo Caldeira.  
Substitute: Albano Sabinio Purificação Rodrigues.  
Attorney: Lucas Francisco Evangelista Dias.  
Substitute: Francisco Caetano D'Cruz Rodrigues.



*Comunidades of Provincia de Bali, Caorem and Pirla (Group)*

President: Bicaró Loximona Naique Dessai.  
Substitute: Mortu Putu Naique Dessai.  
Treasurer: Babusso Purxotoma Naique Dessai.  
Substitute: Utoma Xaba Folo Dessai.  
Attorney: Balsu Balcusta Folo Dessai.  
Substitute: Gones Govinda Folo Dessai alias Crisna.

*Comunidades of Quitol, Naqueri and Quedem (Group):*

President: Govinda Loximona Naique Dessai.  
Substitute: Visvonata Xamba Naique Dessai.  
Treasurer: Ragoba Daco Saunto Dessai.  
Substitute: Xanu Putu Naique Dessai.  
Attorney: Mortu Putu Naique Dessai.  
Substitute: Ragoba Poco Saunto Dessai.

*Comunidades of Bali, Adnem and Fatorpa (Group):*

President: Xencora Ezzo Folo Dessai.  
Substitute: Ananda Babu Naique Dessai.  
Treasurer: Balso Ragoba Naique Dessai.  
Substitute: Bicu Manju Folo Dessai.  
Attorney: Utoma Gonoba Folo Dessai.  
Substitute: Dotu Nilu Folo Dessai.

P. S. Bhatnagar, Collector and D.C.A.

Panaji, 31st March, 1975.

Office of the Chief Electoral Officer

Notification

No. 4-9-71/Elec.

The following Notification No. 82/GOA-HP/1/71 dated 27-2-75 issued by the Election Commission of India, New Delhi is hereby published for general information.

B. M. Masurkar, Chief Electoral Officer.

Panaji, 26th March, 1975.

Election Commission of India

*Nirvachan Sadan, Ashoka Road, New Delhi-1*

Dated 27 February, 1975

Phalgun 8, 1896 (Saka)

Notification

No. 82/GOA-HP/1/71.—In pursuance of clause (b) of sub-section (2) of Section 116C of the Representation of the People Act, 1951 (43 of 1951), the Election Commission of India hereby publishes the Order of the Supreme Court of India dated February, 4, 1975, on an appeal from the Judgment and Order, dated 16 March, 1973, of the Court of the Judicial Commissioner, Goa, Daman and Diu in Election Petition No. 1 of 1971.

By order,

V. NAGASUBRAMANIAN

Secretary to the Election Commission of India.

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Civil Appeal No. 991 of 1973

(From the Judgement & Order dated the 16th March, 1973 of the Court of Judl. Commr., Goa, Daman & Diu in Election Petition No. 1 of 1971)

Gangadhar Yashwant Bhandare — Appellant.

Versus

Erasmó De Jesus Sequeira — Respondent.

the 4th day of February, 1975

Present:

The Hon'ble Mr. Justice H. R. Khanna  
The Hon'ble Mr. Justice P. N. Bhagwati  
The Hon'ble Mr. Justice R. S. Sarkaria

For the Appellant:

M/s V. R. Bhandare, V. N. Ganpule and Mrs. Urmila Sirur, Advocates.

For the Respondent:

Mr. A. K. Sen, Senior Advocate, (Mr. S. R. Agarwala, Advocate, with him).

JUDGMENT

The following Judgment of the Court was delivered by:

KHANNA. J.

The short question which arises for determination in this appeal against the judgment of the Judicial Commissioner Goa, Daman & Diu dismissing petition filed by Gangadhar Yeshwant Bhandare appellant to question the election of Erasmo De Jesus Sequeira respondent to the Lok Sabha is whether the said respondent at the relevant time was a citizen of India.

The respondent was declared elected to the Lok Sabha from the Mormugao parliamentary constituency in the elections held in March 1971. The appellant who had been validly nominated as a candidate at the election for the above constituency withdrew his candidature and did not contest the said election. After the result of the election had been declared, the appellant filed election petition to have the election of the respondent declared void on the ground that on the date of the election the respondent was not qualified to be chosen to fill a parliamentary seat under the Constitution of India and the Representation of the People Act, 1951 as he respondent on that date was not a citizen of India and not an elector as contemplated by the Representation of the People Act, 1951. According to the appellant, prior to December 20, 1961 when the Union Territory of Goa, Daman & Diu was liberated from the Portuguese domination and become a part of the Indian Union the said territory was a Portuguese possession and the respondent was a Portuguese citizen. Following the liberation and merger of that territory with the Union of India, the Government of India in exercise of the powers conferred by section 7 of the Citizenship Act, 1955 issued on March 28, 1962 Goa, Daman and Diu (Citizenship) Order, 1962 (hereinafter referred to as 'Citizenship Order') conferring the citizenship of India on person born in the above mentioned territory before December 20, 1961 on the terms and conditions set out in the order. The relevant part of clause 2 of that order was as under:

«Every person who or either of whose parents or any any of whose grand parents was born before the twentieth day of December 1961 in the Territories now comprised in the Union Territory of Goa, Daman and Diu shall be deemed to have become a citizen of India on that day.

Provided that any such person shall not be deemed to have become a citizen of India as aforesaid if within one month from date of publication of this Order in the Official Gazette that person makes a declaration in writing to the Administrator of Goa, Daman and Diu or any other authority specified by him in this behalf that he chooses to retain the citizenship or nationality which he had immediately before the twentieth day of December, 1961».

It is stated that the respondent choose to maintain his Portuguese nationality and citizenship by making a declaration in writing dated April 27, 1962 as required by the above clause. The respondent thereafter proceeded on foreign travel as an alien on the basis of a Portuguese passport issued to him on or about June 25, 1958 by the former Portuguese Administration. As the said passport was due to expire on June 21, 1962 the respondent on arrival in London in June 1962 applied to the Portuguese Consul in London for a new Portuguese passport which was granted to him on June 18, 1962. The new passport was valid up to June 17, 1964. The respondent returned to India in October 1962 and as an alien applied for and obtained residential permit in India. The permit was renewed from time to time.

On December 20, 1962 the Central Government published the Citizenship (Amendment) Rules, 1962 and inserted in Schedule III to the Citizenship Rules, 1956 clause 3A which reads as under:

«3-A. Where a person, who has become an Indian citizen by virtue of the Goa, Daman and Diu (Citizenship) Order, 1962 or the Dadra and Nagar Haveli (Citizenship) Order, 1962 issued under section 7 of the Citizenship Act, 1955 (57 of 1955) holds a passport issued by the Government of any other country, the fact that he has not surrendered the said passport on or before the 19th January, 1963 shall be conclusive proof of his having voluntarily acquired the citizenship of that country before that date».



It is stated by the appellant that the respondent deliberately failed to surrender his Portuguese passport before January 19, 1963 as required under the above clause. In January 1964 the respondent returned his Portuguese passport to the Special Officer, Ministry of External Affairs and claimed Indian citizenship. No reference was made in that communication by the respondent to the fact that he had made a declaration retaining his Portuguese citizenship. On December 15, 1964 a letter was sent on behalf of the Administration of Goa, Daman and Diu to the respondent stating that prima facie he had become a citizen of India by virtue of the Citizenship Order. In July 1970 the respondent addressed a communication to the Central Government for a certificate under section 13 of the Citizenship Act. In response to that the respondent was informed by letter dated July 27, 1970 that the said certificate was not necessary for him as the Goa Administration had already conveyed to him that he was prima facie an Indian citizen. The appellant asserts that the information conveyed to the respondent by the Goa Administration in letter dated December 15, 1964 was not correct and contrary to documentary evidence. An objection was raised at the time of scrutiny by the appellant that the respondent was not a citizen of India but that objection was overruled by the Returning Officer. The appellant accordingly prayed that the election of the respondent to the Lok Sabha be declared to be void.

The respondent in his written statement stated that the declaration filed by him on April 27, 1962 was not a valid declaration in as much as he did not choose to retain his Portuguese nationality and citizenship. The said declaration was stated to have been made by the respondent at the request of the then Special Adviser Goa for reasons which had no connection with any intention on his part to retain the Portuguese nationality and citizenship or to lose Indian citizenship. The respondent admits that he left India in May 1962 and got his passport renewed from the Portuguese Consulate in London. The respondent was, however, advised by his friends not to go to Portugal and consequently he did not go there. The respondent, it is further stated, was told by the Special Adviser to continue to retain the Portuguese passport so that he might be in a position to make a later trip to Portugal. According further to the respondent, he applied for a residential permit and kept renewing it from time to time as a matter of formality and with the full knowledge of the Special Adviser that the respondent did not intend to jeopardise his Indian citizenship. When clause 3A in Schedule III to the Citizenship Rules was added, the respondent addressed a letter to the Special Officer, Ministry of External Affairs to the effect that he was retaining for the time being the Portuguese passport and that his object was to obtain Indian passport in due course. The respondent thereafter surrendered his Portuguese passport on January 15, 1964. The respondent, it is further stated, obtained a passport as a citizen of India from the Government of India through the Chief Secretary, Goa, Daman and Diu in 1965. Another passport was obtained by the respondent in that capacity in 1970. According to the respondent, letter from Goa Administration dated December 15, 1964 and letter dated July 27, 1970 from the Government of India are conclusive on the point that he was a citizen of India. Objection was also raised by the respondent that clause 3A of Schedule III to the Citizenship Rules and the first proviso to clause 2 of Citizenship Order were ultra vires the Citizenship Act. According to the respondent, he was a citizen of India at the relevant time and his election was not liable to be declared void on the ground set up by the appellant.

It may be stated that the appellant impleaded besides the respondent, the Returning Officer and the Union of India as respondents 2 and 3 respectively in the election petition. Respondent No. 2 was deleted from the list of respondents on July 31, 1971 on an application filed by the appellant. So far as the Union of India respondent No. 3 is concerned, the said respondent was deleted from the list of respondents on the application of the appellant on February 3, 1972 after some preliminary issues had been decided on October 15, 1971. Before that a written statement was filed on behalf of the Union of India.

According to the Union of India, the respondent signed declaration dated April 27, 1962 not voluntarily but on the advice and at the instance of the Special Adviser Goa. As regards the residential permits which were granted to the respondent, the Union of India states that those permits were issued with a view to avoiding any complication as the respondent held a Portuguese passport for reasons connected with the affairs of the State. The Union of India has denied that the respondent acquired the Portuguese citizenship or that he ceased to be an Indian citizen. According further to the Union of India, the respondent is an Indian citizen. Indian passports are stated to have been issued in favour of the respondent because of his being an Indian citizen.

Following issues were framed by the learned Judicial Commissioner:

1. Has this Court jurisdiction to entertain the election petition?
2. Is the petitioner a citizen of India?
3. Did the petitioner comply with the provisions of section 81(3) of the Representation of the People Act, 1951 and if not, is the petition fit to be dismissed under section 86(1) of that Act?
4. Whether the first proviso to para 2 of the Goa, Daman and Diu (Citizenship) Order, 1962 is ultra vires and in excess of the powers conferred by section 7 of the Citizenship Act, 1955?
5. Was the first respondent disqualified to be chosen as member of the Lok Sabha in March 1971 for the reasons stated by the petitioner in the election petition?
6. To what relief?

Issues 1, 2 and 4 which were treated as preliminary issues were decided in favour of the appellant and against the respondent as per order dated October 5, 1971. Issue No. 3 was also decided in favour of the appellant. On issue No. 5 the learned Judicial Commissioner held that the respondent was entrusted with a secret mission on behalf of the Government of India and it was in that connection that he was made to sign declaration dated April 27, 1962. The said declaration was not made voluntarily. The renewal of Portuguese passport by the respondent, it was held, did not imply the loss of Indian citizenship. The retention of the Portuguese passport by the respondent after January 19, 1963 was found to be due to compelling reasons. In the opinion of the Judicial Commissioner, the Government of India must be deemed to have given its decision that the respondent was an Indian citizen. The respondent was accordingly held not disqualified to be chosen as a member of the Lok Sabha. In the result the election petition was dismissed.

In appeal before us Mr. Bhandare on behalf of the appellant has challenged the finding of the Judicial Commissioner that the respondent did not sign declaration dated April 27, 1962 voluntarily and that it was in connection with a secret mission entrusted to him on behalf of the Government of India that he was made to sign that declaration. It is urged that the respondent was not an Indian citizen at the relevant time and as such was not qualified to be chosen to fill a seat in the Parliament. We have given our careful consideration to the submission of Mr. Bhandare and though we agree with him that as provided in article 84 of the Constitution, a person shall not be qualified to be chosen to fill a seat in Parliament unless he is a citizen of India, we find it difficult to accept his other contentions.

Ex. P3 is declaration dated April 27, 1962 which, according to the appellant, was made by the respondent voluntarily. The declaration reads as under:

Panjim  
dated, 27 April, 1962

«The Sr. Superintendent of Police, Goa  
Panjim

Sir,

I ERASMO JESUS DE SEQUEIRA aged 23 years, resident of CAMPAL, PANJIM declare that I have carefully read the order passed by the Military Governor on the 5th of April, 1962 regarding the declaration of Nationality. I have also carefully perused the Notification of the Govt. of India dated 28th March, 1962 which is an order called 'Goa, Diu and Daman Citizenship Order 1962'. I accordingly declare that I choose to retain the PORTUGUESE citizenship Nationality which I was holding immediately before the 20th of December, 1961. I, therefore, herein sign my declaration, declaring my PORTUGUESE citizenship ... Nationality.

Sd/-

Erasmio Jesus de Sequeira  
Signature

The learned Judicial Commissioner has found that the above declaration was made by the respondent not voluntarily and that he was made to sign it in connection with a secret mission entrusted to him on behalf of the Government of India. The finding of the Judicial Commissioner in this respect is supported by the evidence of Mr. G. K. Handoo who was appointed in December, 1961 as a Special

Adviser to the Military Governor of Goa and who was thereafter appointed in March 1962 Special Adviser to the Lt. Governor. Before that Handoo was Additional Inspector General of Police, Maharashtra and Commandant of the Border Security Force of Goa, Daman and Diu. He had also been dealing with foreign intelligence and security of Goa in the Ministry of External Affairs. According to Handoo, declaration Ex. P3 was signed by the respondent only by way of formality in view of the fact that Handoo had decided to use the respondent in a top secret matter relating to the security of the Government of India. The respondent, it is stated, was involved with a Portuguese lady and that fact provided a cover for carrying out the assignment. Handoo has further stated that the respondent retained his Portuguese passport and obtained residential permits to stay in Goa as a foreigner till January 1964 at the instance of Handoo so that the respondent could carry out the assignment entrusted to him. It is also stated by Handoo that the respondent went abroad in 1962 in connection with the assignment on a Portuguese passport under the instructions of Handoo. The expenses for the above foreign trip of the respondent were shared by the Government of India and the respondent. It is further in the evidence of Handoo that the respondent renewed his Portuguese passport in London under the instruction of the witness. On his return the respondent contacted Handoo. Handoo then told the respondent to retain his passport till such time as Handoo decided to use him again or asked him to relinquish it. Handoo adds that he was competent to ask the respondent to retain his Portuguese passport and to proceed on top secret assignment. It is also in the evidence of Handoo that the respondent addressed letter Ex. P4 to Handoo on April 27, 1962. The letter reads as under:

Campal

Panjim

27th April, 1962

«CONFIDENTIAL

Mr. G. K. HANDOO  
SPECIAL ADVISER  
GOA

Dear Mr. Handoo,

Confirming my call on you this morning, I, as agreed, write to advise you that I wish to retain my Portuguese passport No. 703/58 issued at Goa for the present, to enable me to visit Portugal and see a very personal friend on a highly personal reason.

I request that permission be granted for me to leave India on this passport, and would appreciate a re-entry permit valid for six months being granted at the same time.

I am, as advised by you, registering my passport at the police, and I shall be seeing you to hand over this letter, immediately after.

With compliments,

Yours sincerely,

Sd/-

Erasmó Jesus de Sequeira»

On the above letter Handoo recorded a note meant for Joshi who was in charge of Passport Section at Panjim. The note reads as under:

«Please see. I had spoken to you about this. The applicant has to go back to Portugal with reference to his entanglement with a white Portuguese lady and has to finally settle this domestic issue and return. He will then take over an Indian passport which can be issued as he will renounce Portuguese nationality. Please issue him a re-entry permit as desired at 'A' above.»

The statement of the respondent when he came into the witness-box is similar to that of Handoo. The learned Judicial Commissioner has accepted the evidence adduced on behalf of the respondent in this respect, and we see no particular reason to disbelieve the same.

Handoo was a senior officer who dealt with foreign intelligence and security of Goa. At the relevant time he was Special Adviser to the Lt.-Governor. So far as the present proceedings of the election petition are concerned, he is wholly disinterested and there appears to be no cogent ground whatsoever as to why he should give false evidence in favour of the respondent. As regards the respondent, we find that he was subjected to lengthy and searching cross-examination lasting for 11 days. The learned Judicial Commissioner has

commended the demeanour of the respondent in the witness-box and has observed that the respondent's clear, unhesitating and firm answers impressed him for the truthfulness. According to the Judicial Commissioner, the evidentiary value of the respondent's statement, instead of being weakened, was fortified as a result of cross-examination. This Court in an election appeal normally does not interfere with the appraisal of the evidence of the witness by the High Court unless such appraisal is afflicted with some glaring infirmity. After having been taken through the evidence of Handoo and the respondent, find no reason whatsoever to take a view different from that taken by the Judicial Commissioner regarding the trustworthiness of the two witnesses.

Mr. Bhandare has drawn our attention to the suggestion which was put in cross-examination to the respondent that he was being helped by the ruling party at the Centre in the matter of his citizenship and the present election petition because of the support lent by him to the ruling party since 1969. The respondent repudiated this suggestion and we find that apart from this bare suggestion in cross-examination there is no other material on the record to show that the suggestion was well-founded. We further find that Handoo retired from Government service and did not hold any official position after November 1962. His evidence in the present proceedings was recorded on commission in August 1972. Handoo being no longer in Government service at the time of the recording of his evidence, it is not clear as to how he could be influenced by the party in power at the Centre to give evidence in favour of the respondent. The evidence of the respondent and Handoo is also borne out by the letter which was addressed by the respondent to Handoo on April 27, 1962 and the note made on that letter by Handoo. The words «as agreed» in the above letter go to show that it was in pursuance of some arrangement between Handoo and the respondent that the latter was retaining his Portuguese passport and visiting Portugal. The note which was made by Handoo expressly refers to that fact that the respondent after returning from his foreign trip was to take over an Indian passport and renounce Portuguese nationality. No express reference to the secret mission in the very nature of things could be expected either in the letter or in the note. It was obviously essential for the success of the secret mission that things should not be divulged by making them explicit.

The evidence of the respondent and Handoo also shows that the expenses for the foreign trip of the respondent were borne partly by the Government and partly by the respondent. No question of sharing of those expenses by the Government would arise if the respondent was not undertaking that trip for reasons connected with the affairs of the State as alleged by the respondent.

While dealing with the question as to what value should be attached to the evidence adduced by the respondent, we must also bear in mind the written statement which has been filed on behalf of the Union of India. According to the stand taken by the Union of India, declaration dated April 27, 1962 was not signed by the respondent voluntarily but on the advice and at the instance of the Special Adviser Goa. The Union of India has further stated that the residential permits were granted to the respondent with a view to prevent any complication as the respondent held a Portuguese passport for reasons connected with the affairs of the State. Looking to all the facts, we agree with the learned Judicial Commissioner that the evidence on record proves that the respondent was entrusted with a secret mission on behalf of the Government of India, it was in that connection that he was made to sign declaration dated April 27, 1962. We also agree that the intention of the respondent at the time he signed the declaration was not to become a Portuguese national but to acquire Indian nationality and citizenship.

The evidence of Handoo and the respondent also establishes that it was at the instance of Handoo in connection with the secret mission entrusted to him that the respondent travelled on a Portuguese passport in 1962 and obtained on the expiry of his passport a fresh passport from Portuguese Consulate in London in June 1962. The evidence further establishes that it was for the same reason that the respondent did not surrender his Portuguese passport on or before January 19, 1963 in accordance with clause 3A inserted in Schedule III to the Citizenship Rules, 1956. The same was the reason, according to that evidence, for the stay of the respondent in Goa as a foreigner or residential permits till January 1964.

It has next been argued by Mr. Bhandare that whatever might be the reason which might have weighed with the respondent in making declaration P3 dated April 27, 1962 regarding his Portuguese nationality and the retention of

the Portuguese passport till after January 19, 1963 the law must take its course and the Court should give effect to the proviso to clause 2 of the Citizenship Order and clause 3A of Schedule III to the Citizenship Rules, 1956. In accordance with the above provisions, the respondent, it is urged, should be held to be a Portuguese citizen and not an Indian citizen.

We are unable to accede to the above submission. The respondent was admittedly born before the 20th day of December 1961 in the Territory of Goa, Daman and Diu. As such, but for declaration P3 signed by him, he would according to clause 2 of the Citizenship Order be deemed to have become a citizen of India on the 20th day of December 1961. Question then arises as to what is the effect of declaration P3 made by the respondent on April 27, 1962 and the retention of the Portuguese passport by him after January 19, 1963. We have found above that even though the respondent wanted to become an Indian citizen, he signed declaration P3 and retained the Portuguese passport till January 1964 because of the secret mission which had been entrusted to him in connection with the affairs of the State. It cannot, therefore, be said that the choice to retain Portuguese nationality as expressed in declaration P3 as well as the choice to retain the Portuguese passport after January 19, 1963 represented the real choice of the respondent exercised by him voluntarily and of his free volition. On the contrary, it was because of the necessity and the compulsive reason or ensuring the success of the secret mission entrusted to him in connection with the affairs of the State that the respondent signed declaration P3 and retained the Portuguese passport till after January 19, 1963. The evidence on record establishes that declaration P3 was a sham declaration which did not embody the real intention or choice of the person signing it. It was not intended to be acted upon and was signed at the instance of a senior officer acting on behalf of the Government of India because it was considered to be a necessary camouflage and cover to facilitate the carrying out of the secret mission entrusted to him in connection with the affairs of the State. The same was the reason for the retention of the Portuguese passport by the respondent after January 1963. As such, declaration P3 and the retention of the passport by the respondent after January 1963 cannot have the effect of depriving the respondent of the benefit of Indian citizenship. It would indeed look anomalous if a declaration signed in the above circumstances were to result in the evil consequence of the respondent being denied the right to become an Indian citizen. We may observe that once a declaration like P3 is signed by a person and he retains a Portuguese passport after the due date, the onus would be very heavy upon him to prove that the declaration was not signed by him voluntarily and that the retention of the Portuguese passport by him was also not a voluntary act. Unless he discharges that onus by clear and cogent evidence, the law would take its course and he would not be regarded an Indian citizen. Where, however, as in the present case the person concerned discharges that onus and it is established by clear and cogent evidence that the real choice and intention of the person concerned was to become an Indian national and that he signed the declaration and retained the passport because of the compulsion of a secret assignment entrusted to him in connection with the affairs of the State, he cannot be deprived of his entitlement to Indian citizenship.

We may in the above context refer to the case of *Mohd. Ayub Khan v. Commissioner of Police, Madras & Anr.*<sup>1</sup> This Court in that case was dealing with paragraph 3 of Schedule III to the Citizenship Rules, 1956 which raises a conclusive presumption that a citizen of India who has obtained a passport from a foreign country on any date, has before that date voluntarily acquired citizenship of that other country. Referring to that paragraph this Court observed:

«By the application of the rule in Paragraph 3 the authority must regard obtaining of a foreign passport on a particular date as conclusive proof that the Indian citizen has voluntarily acquired citizenship of another country before that date. But obtaining of a passport of a foreign country cannot in all cases merely mean receiving the passport. If a plea is raised by the citizen that he had not voluntarily obtained the passport the citizen must be afforded an opportunity to prove that fact. Cases may be visualized in which on account of force a person may be compelled or on account of fraud or misrepresentation he may be induced, without any intention of renunciation of his Indian citizenship, to obtain a passport from a foreign country. It would

be difficult to say that such a passport is one which has been 'obtained' within the meaning of Paragraph 3 of Sch. III and that a conclusive presumption must arise that he had acquired voluntarily citizenship of that country».

The learned Judicial Commissioner has held that letter R3 dated July 27, 1970 taken along with other documents should be construed as a certificate issued by the Government under section 13 of the Citizenship Act. The above finding has been assailed by Mr. Bhandare. In this connection we find that according to Section 13 of the Citizenship Act, the Central Government may, in such cases as it thinks fit, certify that a person, with respect to whose citizenship of India a doubt exists, is a citizen of India; and a certificate issued under this section shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that that person was such a citizen on the date thereof, but without prejudice to any evidence that he was such a citizen at an earlier date. The respondent, as mentioned earlier, surrendered his Portuguese passport on January 15, 1964. While surrendering his passport, the respondent wrote letter dated January 15, 1964 to the Special Officer, Ministry of External Affairs claiming Indian citizenship. The Ministry of External Affairs then referred the matter to the Senior Superintendent of Police Panjim. The statement of the respondent was then recorded by the police and the Senior Superintendent of Police thereafter made a report. A report was then sent to the Ministry of External Affairs by the Chief Secretary, Government of Goa, Daman and Diu. A letter was thereafter sent on behalf of the Ministry of External Affairs on December 2, 1964 to the said Chief Secretary stating that in view of the information supplied by the Chief Secretary, there was no objection to the respondent being treated as a citizen of India under the Citizenship Order. On December 15, 1964 a communication was sent to the respondent by the Under Secretary, Home Department of the Government of Goa, Daman and Diu that prima facie the respondent had become a citizen of India by virtue of the Citizenship Order. More than four and a half years thereafter on July 1, 1969 the Inspector General of Police addressed a letter to the Chief Secretary, Government of Goa, Daman and Diu that the respondent has made declaration P3 dated April 27, 1962 choosing to retain Portuguese citizenship and that this fact had not been brought to the notice of the Government before letter dated December 15, 1964 was issued to the respondent that he had prima facie become a citizen of India. The Chief Secretary thereafter addressed a letter to the Ministry of Home Affairs and informed the Additional Secretary in that Ministry about the making of the above declaration by the respondent. There was then further correspondence between the Government of India and the Government of Goa, Daman and Diu. On July 26, 1970 the Joint Secretary to the Government of India, Ministry of Home Affairs addressed letter P52 to the respondent that the matter regarding his claim to Indian citizenship had been reconsidered and it had been decided that the matter should be treated as closed. The Government of India thus reaffirmed its decision which had been conveyed to the respondent in 1964 that the respondent had become prima facie a citizen of India by virtue of the Citizenship Order. It is also plain that the Central Government reaffirmed its decision that the respondent had prima facie become a citizen of India in spite of the fact that the Central Government was informed about the making of declaration P3 by the respondent on April 27, 1962. On July 27, 1970 the Joint Secretary in the Ministry of Home Affairs addressed the following letter R3 to the respondent:

«I am directed to refer to your letter dated 27th July, 1970 requesting for grant of a certificate of citizenship under Section 13 of the Citizenship Act, 1955, and to say that since the Goa Administration have in their letter No. HD-9-436/64 dated 15th December, 1964, already informed you that you have *prima facie* become a citizen of India by virtue of the Goa, Daman and Diu (Citizenship) Order, 1962, the necessity of a certificate under Section 13 does not arise».

As already mentioned, the learned Judicial Commissioner has held that the above letter taken along with the preceding correspondence should be construed as a certificate issued by the Central Government under Section 13 of the Citizenship Act. We find no cogent ground to take a different view. By the above letter the Government of India plainly reiterated and reaffirmed its view conveyed to the respondent on December 15, 1964 that he had *prima facie* become a citizen of India by virtue of the Citizenship Order. It was no doubt mentioned in the letter that the necessity of a certificate under Section 13 does not arise, but this

was plainly in view of the assumption made by the Government of India as expressed in that letter that the respondent was already accepted to be a citizen of India. The learned Judicial Commissioner, in the circumstances, cannot be held to be in error in construing letter R3 and the preceding correspondence as a certificate under Section 13 of the Citizenship Act.

To put it differently, Section 13 vests the Central Government with power to certify in case a doubt exists as to whether a particular person is a citizen of India that he is such a citizen. In the case of the respondent a doubt was raised by the Government of Goa, Daman and Diu on the point as to whether he was a citizen of India. The Government of Goa, Daman and Diu in this context referred to the fact that the respondent while praying on January 15, 1964 for being declared Indian citizen had suppressed the fact about his having signed declaration P3 on April 27, 1962 choosing to retain Portuguese nationality. The Central Government even after being apprised of that fact refused to reconsider its decision of 1964 and observed that the matter should be treated as closed. When the respondent thereafter asked for certificate under section 13 the Central Government said that no such certificate was necessary in view of the earlier official communication which had been sent to him that he had *prima facie* become a citizen of India.

These facts, in our opinion, clearly establish that the Central Government after being put in possession of all relevant facts reiterated its view that the respondent was an Indian citizen and should be considered as such. Letters dated July 26, 1970 and July 27, 1970 though they do not profess to be certificates issued under Section 13 and though the later of these two letters recites that that there was no necessity of a certificate, clearly incorporate the view of the Government of India that the respondent was an Indian citizen. The letters thus serve the purpose of a certificate

and we agree with Mr. Sen, counsel for the respondent, that they operated as certificate and should be construed as such.

We may observe that the Government of India issued a passport in favour of the respondent in 1965 and thereafter in 1970. The respondent before his election to the Lok Sabha in 1971 was also a member of the Lok Sabha from 1967 till 1971. When elected as a member of the Lok Sabha in 1967 as also when he obtained the Indian passport in 1965 and 1970 the respondent had to sign the declaration that he was an Indian citizen. He has already renounced his Portuguese citizenship. To hold at this stage that the respondent is not an Indian citizen would have the effect of rendering him stateless.

As a result of the above, we find that there is no merit in the appeal. It accordingly fails and is dismissed with costs.

February 4, 1975.

Sd/-

R. R. Khana J.

Sd/-

P. N. Bhagwati J.

Sd/-

R. S. Sarkaria J.

*Advocate on Record*

For the Appellant: Mrs. Urmila Sirur.

For the Respondent: Mr. S. R. Agarwala.

Seal.